

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1017 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

SURENDRA KESHAVLAL SHAH

Versus

ARVIND NATVARLAL DESAI

Appearance:

Mr. B.H.Bhrambhatt for the petitioner.

Mr. S.A.Pandya, Addl. PP for respondent No.8.

Respondents Nos. 1 to 7 served.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/10/96

ORAL JUDGEMENT

The petitioner is the original complainant of Criminal Case No.1019 of 1983 pending in the Court of the learned Judicial Magistrate, First Class, Dahod wherein it is alleged that respondents Nos. 1 to 3 misused the cheques by issuing false cheques by putting false signatures of the petitioner and by affixing the false rubber stamp of the petitioner's firm. It appears

that initially the process was issued against respondents Nos.1 to 3. However, during the course of inquiry by the Court, according to the petitioner, respondents Nos. 4 to 7 were found guilty. He, therefore, filed an application being application, Ex.56, for impleading them as accused.

The learned Magistrate, after hearing the parties was of the view that the application is premature and dismissed the same by observing, " at this stage". The petitioner thereafter approached the Sessions Court, Panchmahals at Godhra by way of revision application. The learned Sessions Judge rejected the said application on the ground that the revision was against an interlocutory order and since no finality is attached to the order, the revision is not maintainable in view of section 397 (2) of the Criminal Procedure Code. The present petition under Article 227 of the Constitution of India is against the said order.

This Court, while issuing Rule on the said petition, refused to grant interim relief on 10-2-89 meaning thereby there was no stay of further proceedings of the criminal case pending in the Court of the learned JMFC, Dahod. In view of this long lapse of time, it is reasonable to infer that by this time the trial Court must have passed appropriate orders in the criminal case pending before it. In case, no order is passed, the trial Court is directed to hear and dispose of Criminal Case No. 1019 of 1983 as expeditiously as possible.

In view of this direction, nothing further is required to be done in the case as I am of the view that the revision was rightly rejected on the ground that the same is against the interlocutory order. As the learned Sessions Judge, in view of the express provisions of law, has rejected the revision on the ground of its maintainability, there is hardly any ground for this Court to take a different view in a petition under Article 227 of the Constitution of India. Under the circumstances, there being no substance in the petition, the same is rejected. Rule is discharged with no order as to costs.

True copy